IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 311 of 1990

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAMUBEN JAYANTILAL MODI WIFE OF DECD JAYANTILAL MODI & 1 - Applicant(s)

Versus

SONI CHAMPAKLAL S. - Opponent(s)

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Appearance :

Petitioners Nos.1/1 to 1/3 and 2/1 to 2/6 SERVED.

Petitioners Nos.1/4 to 1/7 UNSERVED.
Mr Saurabh Patel for Mr RC Jani for the Respondent.

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CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date : 26/07/2005

ORAL JUDGMENT

Feeling aggrieved by the judgment and order dated 30th January, 1990 passed by the learned Joint District

Judge, Mehsana in Regular Civil Appeal No.25/1985, the appellants (defendants in Civil Suit No.129/1978) have preferred the present Revision Application under Section 29(2) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as, **"the Rent Act"**).

Pending this Revision Application the petitioners have passed away. Their heirs and legal representatives have been substituted. Intimation of passing away of the learned advocate appearing for the petitioners was sent to the petitioners nos.1/1 to 1/7 and 2/1 to 2/6. Though served the petitioners nos.1/1 to 1/3 and 2/1 to 2/6 have not entered appearance.

The address of the petitioners nos.1/4 to 1/7 given in the cause-title is incomplete. The names of the petitioners nos.1/4 to 1/7 are deleted from the cause-title of the petition.

The respondent-plaintiff is the owner of the suit shop bearing City Tika No.7/3 situated at Visnagar. Under rent note dated 8th March, 1966 the suit shop was leased to the defendant no.1 for a monthly rent of Rs.47=00 for

a period of 11 months. Under the said rent note the suit shop was leased to the defendant no.1 for carrying on his business and on condition, inter alia, that the defendant no.1 shall not sublet or transfer the suit shop or give it on licence or goodwill. The plaintiff instituted Civil Suit No.129/1978 in the Court of learned Civil Judge (J.D.), Visnagar for recovery of possession of the suit shop on the ground that the defendant no.1 had, in breach of the conditions of tenancy, unlawfully sublet or transferred the suit shop to the defendant no.2. The suit was contested by the defendants vide written statement Exh.14. The defendants denied the allegations made in the plaint. The learned Civil Judge, by judgment and order dated 18th February, 1985, recorded finding in favour of the plaintiff and passed decree for eviction against the defendants. Feeling aggrieved, the defendants preferred Regular Civil Appeal No.25/1985 in the Court of learned District Judge, Mehsana. The learned Joint District Judge confirmed the finding and the decree for eviction passed by the learned Civil Judge. Therefore, the present Revision Application.

In view of the concurrent finding recorded by both the Courts below, no interference is warranted. The

Revision Application is dismissed with cost. Rule is discharged. Interim relief stands vacated.

(Ms. R.M.Doshit, J.)

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